

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
and)	
)	Civil No. 2:96 CV 095 RL
THE STATE OF INDIANA, STATE OF OHIO,)	
and THE NORTHWEST AIR POLLUTION)	
AUTHORITY, WASHINGTON,)	
)	
Plaintiff-Intervenors,)	
)	
v.)	
)	
BP EXPLORATION & OIL CO., et al.,)	
)	
Defendants.)	
)	

TWELFTH AMENDMENT TO CONSENT DECREE

Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”) (hereinafter “the United States”); the State of Ohio (“Plaintiff-Intervenor”); and BP Products North America Inc. (successor-in-interest to BP Exploration and Oil, Co. and formerly known as Amoco Oil Company, and hereinafter referred to as “BP Products”) and BP West Coast Products LLC (the owner of refining assets previously owned by Atlantic Richfield Company, and a wholly owned subsidiary of BP Products) (collectively referred to herein as “BP”) are parties to a Consent Decree entered by this Court on August 29, 2001 (the “2001 Consent Decree”).

Through a series of amendments previously approved by the Court, the 2001 Consent Decree’s obligations were transferred from BP to other companies that purchased certain refineries subject to the 2001 Consent Decree. These refineries include:

- The Mandan Refinery and Salt Lake City Refinery (via the First Amendment);
- The Yorktown Refinery (via the Second Amendment and Eighth Amendment);
- A hydrogen plant located at the Texas City Refinery (via the Third Amendment) and the Texas City Refinery itself (via the Ninth Amendment); and
- The Carson Refinery (via the Tenth Amendment).

The Court has also terminated several of the covered refineries' obligations under the 2001 Consent Decree. The refineries terminated from the 2001 Consent Decree include:

- The Whiting Refinery (via the Seventh Amendment);
- The Yorktown Refinery (*see* Oct. 8, 2015 Order partially terminating 2001 Consent Decree) (ECF Doc. 190);
- The Mandan Refinery and Salt Lake City Refinery (*see* Nov. 18, 2016 Order partially terminating 2001 Consent Decree) (ECF Doc. 196); and
- The Cherry Point Refinery (via the Eleventh Amendment) (ECF Doc. 197-1).

The United States, State of Ohio, BP, and BP-Husky Refining LLC ("BPH")¹ now seek to terminate the obligations of the BP refinery located in Toledo, Ohio (the "Toledo Refinery") under the 2001 Consent Decree, as amended. Following entry of this Twelfth Amendment, BP will no longer be a party to the 2001 Consent Decree and only the Texas City Refinery and Carson Refinery will remain subject to the 2001 Consent Decree.²

Before filing this amendment, the United States, the State of Ohio, BP, and BPH lodged a new, separate consent decree in the Northern District of Ohio that applies only to the Toledo

¹ The Toledo Refinery was owned and operated by BP until 2008 when ownership transferred from BP to BPH. BP remains the operator of the Toledo Refinery. BPH is not a party to the 2001 Consent Decree, but it is a party to a new consent decree regarding the Toledo Refinery that has been filed in the United States District Court for the Northern District of Ohio.

² The Texas City Refinery is owned and operated by Blanchard Refining Company LLC ("Blanchard"), a wholly owned subsidiary of Marathon Petroleum Company L.P. ("Marathon"). The Carson Refinery is owned and operated by Marathon. Both Blanchard and Marathon remain subject to the 2001 Consent Decree.

Refinery. This new consent decree incorporates certain continuing obligations and requirements of the 2001 Consent Decree and its amendments as they pertain to the Toledo Refinery. The new consent decree will also resolve alleged Clean Air Act and other violations at the Toledo Refinery that the EPA and State of Ohio identified after the 2001 Consent Decree was entered. The EPA provided BP, BPH, and the State of Ohio with actual notice of these alleged violations in accordance with Section 113(a)(1) and (b) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (b).

The United States, the State of Ohio, BP, and BPH have agreed that settlement of the claims related to BP's alleged violations at the Toledo Refinery is in their best interests and in the public interest. The new consent decree for the Toledo Refinery has been filed prior to the filing of this Twelfth Amendment. The United States, the State of Ohio, and BP therefore agree to terminate the Toledo Refinery's remaining obligations under the 2001 Consent Decree following entry of the Toledo Refinery's new consent decree in the Northern District of Ohio.

Paragraphs 1.b, 1.c., and 1.d of this Twelfth Amendment recite obligations that remain for the Carson Refinery and the Texas City Refinery under Paragraphs 15.B.i. and 15.B.ii of the 2001 Consent Decree. These obligations for the Carson Refinery and Texas City Refinery have been recited in, and have not changed from, previous amendments to the 2001 Consent Decree. However, because BP no longer owns or operates the Carson Refinery or Texas City Refinery, it makes no representations with respect to the obligations of the two remaining refineries recited in this Twelfth Amendment.

Accordingly, this Twelfth Amendment does not affect, alter, or amend any obligation or requirement pertaining to any refinery or facility covered by the 2001 Consent Decree other than

the Toledo Refinery. This Twelfth Amendment also does not affect the interest of any of the parties to the 2001 Consent Decree other than the United States, the State of Ohio, and BP.

BP does not contest this Court's jurisdiction to enforce the terms and conditions of the 2001 Consent Decree and to enter and enforce this Twelfth Amendment.

WHEREAS, Paragraph 85 of the 2001 Consent Decree requires that this Twelfth Amendment be approved by the Court before it is effective; and

WHEREAS, the United States, the State of Ohio, and BP recognize, and the Court by entering this Twelfth Amendment to the 2001 Consent Decree finds, that this Twelfth Amendment has been negotiated by the Parties in good faith and will avoid litigation between the parties, and that this Twelfth Amendment to the 2001 Consent Decree is fair, reasonable, and in the public interest;

NOW THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law, except as provided in Section I of the 2001 Consent Decree ("Jurisdiction and Venue"), and with the consent of the Parties,

IT IS HEREBY ADJUDGED, ORDERED, AND DECREED that the 2001 Consent Decree shall be amended in accordance with this Twelfth Amendment as follows:

1. After the Consent Decree addressing the Toledo Refinery (which is being simultaneously lodged with this Twelfth Amendment) has been entered as a final order in the United States District Court for the Northern District of Ohio, and after BP has paid the stipulated penalties required by Section V of that Consent Decree:

- a. The 2001 Consent Decree and its amendments are hereby terminated with respect to the Toledo Refinery.

- b. Paragraph 15.B.i. of the 2001 Consent Decree, as amended, is hereby further amended to read as follows:

The successor entity that is subject to this Consent Decree for the Carson Refinery and Texas City Refinery shall select the heaters and boilers that shall be controlled at the Carson and Texas City Refineries. The combined heat input capacity of the heaters and boilers selected by the successor entity that is subject to this Consent Decree for the Carson Refinery and Texas City Refinery for future control, together with the heaters and boilers on which controls identified in sub-Paragraph 15.E. have already been installed, must represent a minimum of 14,316.4 MMBtu of the two refineries' heaters and boilers greater than 40 MMBtu/hr. Further, not less than 30% of the heater and boiler heat input capacity for heaters and boilers greater than 40 MMBtu/hr at any individual refinery must be controlled in accordance with sub-Paragraph 15.E. For purposes of this sub-Paragraph, the phrase "heaters and boilers" shall include the turbines associated with sources PRS4-410 and PRS4-420 at the Texas City Refinery.

In addition, for purposes of this sub-Paragraph, 10,055.9 MMBtu in combined heater and boiler firing capacity shall be allocated to the Texas City Refinery and 4260.5 MMBtu in combined heater and boiler firing capacity shall be allocated to the Carson Refinery.

- c. Paragraph 15.B.ii. of the 2001 Consent Decree, as amended, is hereby further amended by adding the following sentence to the end thereof:

No later than January 18, 2005, the successor entity that is subject to this Consent Decree for the Carson Refinery and Texas City Refinery shall complete installation of the controls on heaters and boilers at the Carson and Texas City Refineries having a combined firing capacity of 12,709.5 MMBtu/hr heat input capacity. No later than January 18, 2005, the successor entity that is subject to this Consent Decree for the Carson Refinery and Texas City Refinery shall propose a schedule for installation of the controls on the remaining heaters and boilers required to be controlled under Paragraph 15.B.i.

For purposes of this sub-Paragraph, 9,008.3 MMBtu in combined heater and boiler firing capacity shall be allocated to the Texas City Refinery and 3701.2 MMBtu shall be allocated to the Carson Refinery.

- d. Paragraph 15.F.i. of the 2001 Consent Decree, as amended, is hereby terminated.
2. The foregoing Twelfth Amendment to the 2001 Consent Decree is hereby approved and entered as a final order of this Court.

Dated and entered this _____ day of _____, 20_____.


UNITED STATES DISTRICT JUDGE

WE HEREBY CONSENT to the Twelfth Amendment to the Consent Decree entered in *United States, et al., v. BP Exploration and Oil Co., et al.*, Civil No. 2:96 CV 095 RL.

FOR PLAINTIFF, THE UNITED STATES OF AMERICA:

JONATHAN D. BRIGHTBILL
Principal Deputy Assistant Attorney General
Environment and Natural Resources Section
United States Department of Justice

1-8-20
DATE



STEVEN D. SHERMER
Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611 Washington, DC 20044-7611

[Reserved]

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FOR PLAINTIFF, THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 5:

12/5/2019
DATE



T. LEVERETT NELSON
Regional Counsel
United States Environmental Protection Agency
Region 5
Chicago, Illinois 60604

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FOR PLAINTIFF-INTERVENOR, THE STATE OF OHIO:

DAVE YOST
OHIO ATTORNEY GENERAL

January 2, 2020
DATE

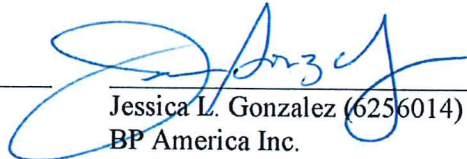
Wednesday M. Szollosi
WEDNESDAY M. SZOLLOSI (0075655)
Assistant Attorney General
Environmental Enforcement Section
Toledo Regional Office
One Government Center, Suite 1340
Toledo, OH 43604
Telephone: (419) 245-2550
Facsimile: (877) 626-9316
wednesday.szollosi@ohioattorneygeneral.gov

Attorney for the State of Ohio

WE HEREBY CONSENT to the Twelfth Amendment to the Consent Decree entered in *United States, et al., v. BP Exploration and Oil Co., et al.*, Civil No. 2:96 CV 095 RL.

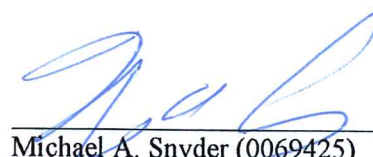
FOR DEFENDANTS, BP PRODUCTS NORTH AMERICA INC. AND BP WEST COAST PRODUCTS LLC:

11-19-2019
DATE



Jessica L. Gonzalez (6256014)
BP America Inc.
Senior Counsel – HSSE
30 S. Wacker Drive
Chicago, IL 60606
(312) 809-4518
Jessica.Gonzalez@bp.com

11-20-2019
DATE



Michael A. Snyder (0069425)
Shumaker, Loop & Kendrick, LLP
Huntington Center
41 South High St., Suite 2400
Columbus, Ohio 43215
(614) 628-4469
msnyder@shumaker.com